

DRUG AND ALCOHOL FREE WORKFORCE

[CT, FP –NR&D, FP – R&D, LH/T&M, T&MC, CREI, A –E – 09/04] [NFS 1852.223-74 - 03/96]

- (a) Definitions. As used in this clause the terms "employee," "controlled substance," "employee in a sensitive position," and use, in violation of applicable law or Federal regulation, of alcohol are as defined in 48 CFR 1823.570-2.
- (b)
 - (1) The Contractor shall institute and maintain a program for achieving a drug-and alcohol-free workforce. As a minimum, the program shall provide for preemployment, reasonable suspicion, random, post-accident, and periodic recurring (follow-up) testing of Subcontractor employees in sensitive positions for use, in violation of applicable law or Federal regulation, of alcohol or a controlled substance. The Contractor may establish its testing or rehabilitation program in cooperation with other Subcontractors or organizations.
 - (2) This clause neither prohibits nor requires the Contractor to test employees in a foreign country. If the Contractor chooses to conduct such testing, this clause does not authorize the Contractor to violate foreign law in conducting such testing.
 - (3) The Contractor's program shall test for the use of marijuana and cocaine. The Contractor's program may test for the use of other controlled substances.
 - (4) The Contractor's program shall conform to the "Mandatory Guidelines for Federal Workplace Drug Testing Programs" published by the Department of Health and Human Services (59 FR 29908, June 9, 1994) and the procedures in 49 CFR part 40, "Procedures for Transportation Workplace Drug Testing Programs," in which references to "DOT" shall be read as "NASA", and the split sample method of collection shall be used.
- (c)
 - (1) The Contractor's program shall provide, where appropriate, for the suspension, disqualification, or dismissal of any employee in a sensitive position in any instance where a test conducted and confirmed under the Contractor's program indicates that such individual has used, in violation of applicable law or Federal regulation, alcohol or a controlled substance.
 - (2) The Contractor's program shall further prohibit any such individual from working in a sensitive position on a JPL Subcontract, unless such individual has completed a program of rehabilitation described in paragraph (d) of this clause.
 - (3) The Contractor's program shall further prohibit any such individual from working in any sensitive position on a JPL Subcontract if the individual is determined under the Contractor's program to have used, in violation of applicable law or Federal regulation, alcohol or a controlled substance and the individual meets any of the following criteria:
 - (A) The individual had undertaken or completed a rehabilitation program described in paragraph (d) of this clause prior to such use;
 - (B) Following such determination, the individual refuses to undertake such a rehabilitation program;
 - (C) Following such determination, the individual fails to complete such a rehabilitation program; or
 - (D) The individual used a controlled substance or alcohol while on duty.
 - (d) The Contractor shall institute and maintain an appropriate rehabilitation program which shall, as a minimum, provide for the identification and opportunity for treatment of employees whose duties include responsibility for safety-sensitive, security, or National security functions who are in need of assistance in resolving problems with the use of alcohol or controlled substances.
 - (e) The requirements of this clause shall take precedence over any state or local Government laws, rules, regulations, ordinances, standards, or orders that are inconsistent with the requirements of this clause.
 - (f) For any collective bargaining agreement, the Contractor will negotiate the terms of its program with employee representatives, as appropriate, under labor relations laws or negotiated agreements. Such negotiation, however, cannot change the requirements of this clause. Employees covered under collective bargaining agreements will not be subject to the requirements of this clause until those agreements have been modified, as

necessary; provided, however, that if one year after commencement of negotiation the parties have failed to reach agreement, an impasse will be determined to have been reached and the Contractor will unilaterally implement the requirements of this clause.

- (g) The Contractor shall insert a clause containing all the terms of this clause, including this paragraph (g), in all First-tier Subcontracts in which work is performed by an employee in a sensitive position, except First-tier Subcontracts for commercial items (see FAR parts 2 and 12).